

Received



WILLIAMSON COUNTY

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July 26, 2005

VIA FACSIMILE (615) 741-5015 AND
UNITED STATES MAIL

Mr. J. Richard Collier, Esq.
General Counsel
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

RE: Rulemaking for the Regulation of Wastewater Companies
Docket Number 05-00105

Dear Mr. Collier:

Thank you for providing the Notice of Filing Comments on July 14, 2005 for the above-noted docket. Please accept these comments and questions from Williamson County regarding these proposed Rules and Regulations.

1. Rule 1220-4-12-.02(9)
Does this include the regulation of the traditional one household domestic subsurface sewage disposal systems? If not, what language exempts same? Are the Application and Purpose Rules found in 1220-4-12-.01 sufficient to exempt subsurface sewage disposal systems?
2. Rule 1220-4-12-.03
If these records are not maintained by the Tennessee Regulatory Authority, are members of the general public and the customers of these entities entitled to inspect these records? Would these entities be subject to the Public Records Act, Tennessee Code Annotated Title 10, Chapter 7, Part 5, by virtue of their Certificates of Public Convenience and Necessity?
3. Rule 1220-4-12-.04(2)
This Draft Rule references inclusion with the application the "required" financial security information consistent with Tennessee Code Annotated Section 65-4-201 and these Rules. But Tennessee Code Annotated Section 65-4-201 does not appear to require any financial security information.

4. Rule 1220-4-12-.04(3)(b)
Where the Draft Rule states: "[s]tatement by the TDEC that the utility was installed according to plans and specifications." Should it not refer to the installation of a "wastewater system" as opposed to a "utility" to be consistent with the definition found within Draft Rule 1220-4-12-.02(9)?
5. Rule 1220-4-12-.04(4)
Williamson County requires the utility to execute a performance agreement securing the installation of the wastewater system and securing the provision of a redundant or back-up system. Execution of these agreements is required prior to recordation of an approved subdivision plat with the Register of Deeds. Would these agreements be subject to Tennessee Regulatory Authority approval prior to execution where Williamson County is not a party to the agreement?
6. Rule 1220-4-12-.05
Would it not be prudent to require that this information be filed with the Tennessee Regulatory Authority, so that members of the general public or a customer of the utility may have access?

If the physical assets are held in trust, for whose benefit? Who is permitted to serve as trustee?

Should not title to all of the land upon which the treatment and disposal portions of the system be in the name of and owned by the utility as well? The land is an integral part of the system. The land upon which the treatment and disposal portions of the system should be owned and controlled by the utility; otherwise, this area will likely be placed into open space. The developer should not be able to derive additional density for an area that does not provide open space/greenway/recreation area for the homeowners. The treatment and disposal areas should be protected and cordoned off, so that the homeowners will not inadvertently cause damage. Additionally, if the utility is permitted to expand a system to accommodate additional development in the region, then the treatment and disposal of an unrelated development should not be burdened upon the open space of another. The collection system would be appropriate in an easement, where the individual tanks will likely be on the property of the homeowner and the collection and conveyance lines will likely be in the right of way, controlled by the local government or a homeowners association.

7. Rule 1220-4-12-.06(2)
The Draft Rule requires "operation and maintenance procedures . . . to assure safe, adequate and continuous service at all times by appropriate qualified staff and shall make inspections on a regular basis." Are there minimum qualifications one must have to assure safe, adequate and continuous service? What is a regular basis for inspections? Annually? Quarterly? Will these inspection records be filed and/or reviewed by the Tennessee Regulatory Authority? By the Tennessee Department of Environment and Conservation?
8. Rule 1220-4-12-.07(2), (2)(a)(i) and (2)(a)(iii)

Would these provisions encourage the creation of multiple legal business entities for each Certificate of Public Convenience and Necessity to reduce the number of customers, even though such entities may have the same members or shareholders as other entities already granted Certificates?

9. Rule 1220-4-12-.07(6)

Why and under what circumstances would a segregated escrow account not be required? Do not all utilities at some time or another have to pay for non-routine operating and maintenance expenses?

Does this requirement serve to reduce the surety established by 1220-4-12-.07(1) and (2)?

10. Rule 1220-4-12-.07(6)(a)(ii)

Will those bank statements and reports be filed with the Annual Report?

Will the Tennessee Regulatory Authority conduct annual reviews of the escrow disbursement or will an inquiry only be instituted upon receipt of a complaint?

Williamson County appreciates the opportunity to comment on these proposed Regulations. Should you have any questions or desire any additional information, please do not hesitate to contact me.

Sincerely,

WILLIAMSON COUNTY, TENNESSEE



Rogers Anderson, County Mayor and Ex-Officio
Member, Williamson County Water and Wastewater
Authority

xc: Members of the Williamson County Water and Wastewater Authority
Kristi D. Earwood, County Attorney